



UNITED STATES PATENT AND TRADEMARK OFFICE

ST  
UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/545,524	04/07/2000	Seth Haberman	20429/5	9763

7590                    08/08/2002

David D Lowry  
Box IP 18th Floor  
Brown Rudnick Freed & Gesmer P C  
One Financial Center  
Boston, MA 02111

EXAMINER

BORISSOV, IGOR N

ART UNIT

PAPER NUMBER

3629

DATE MAILED: 08/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.	Applicant(s)	
09/545,524	HABERMAN ET AL.	
Examiner	Art Unit	
Igor Borissov	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 07 April 2000.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a)  The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.

- 4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 and 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Hooper et al. (5,671,225).

Hooper et al. teach a system and method for distributing interactive multimedia services, comprising:

As per claims 1 and 9,

- creating at least one default message of a personalized message (column 4, lines 8-28);
  - delineating general characteristics of members of said intended audience and creating a set of target entity qualification data factors for use in database searches to acquire a list of entities to which a personalized message will be distributed (column 5, lines 24-40);

- creating an entity profile template including a substantially complete definition of information about each of said entities that is to be acquired by said database search (column 3, lines 48-55; column 5, lines 41-45);

- using said entity profile template for generation of target entities profiles and status (column 3, lines 48-55; column 5, lines 24-45);

- constructing a message template (column 5, lines 45-48);
    - constructing a message resource library (column 3, lines 57-65; column 5, lines 45-61; column 6, lines 25-27).

As per claim 2, said system and method wherein said constructed message template includes a plurality of media segment slots (column 4, lines 52-59; column 8, lines 43, 61-63).

As per claim 3, said system and method wherein said message resource library includes a plurality of media segments, each media segment corresponding to one of said media segment slots of said message template (column 3, lines 57-63; column 4, lines 52-59; column 8, lines 43, 61-63).

As per claim 4, said system and method wherein several media segments correspond to a same one of said media segment slots of said message template (column 3, lines 57-63; column 4, lines 52-59; column 5, lines 45-61; column 8, lines 43, 61-63).

As per claim 5, said system and method wherein said message resource library includes media segments created specifically for said message campaign (column 6, lines 47-60).

As per claim 6, said system and method, comprising:

- defining a distribution channel selection, for distributing created personalized messages to target entities (column 5, line 49 through column 6, line 21).

As per claim 7, said system and method, comprising:

- defining interactive query responses, for acquiring additional information about said target entity (column 3, lines 61-65; column 5, lines 15-26; column 6, lines 58-60).

As per claim 10, said system and method wherein said message template constructor constructs a plurality of different message templates (column 3, lines 57-63; column 4, lines 52-59; column 5, lines 45-61; column 8, lines 43, 61-63).

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hooper et al. in view of Gerace (U. S. 5,991,735).

As per claims 8, 11 and 12, Hooper et al. teach all the limitations of claims 8, 11 and 12, except:

- defining environmental status factors which are updated at the time the personalized message is transmitted.

Gerace teaches a method and apparatus for targeting of appropriate audience based on psychographics or behavioral profiles of end users, comprising:

- displaying for the user up-to-date information including theater and television schedules and weather information (column 4, lines 32-36; column 34, lines 9-13).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Hooper et al. to include defining environmental status factors which are updated at the time the personalized message is transmitted because it is obvious that the user, looking for the weather information or television schedules, is looking for the up-to-date information.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (see form PTO-892).

Any inquiry concerning this communication should be directed to Igor Borissov at telephone number (703) 305-4649.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the Receptionist whose telephone number is (703) 308-1113.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, John Weiss, can be reached at (703) 308- 2702.

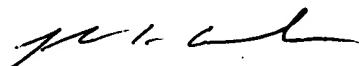
Any response to this action should be mailed to:

*Commissioner of Patents and Trademarks*  
*Washington D.C. 20231*

or faxed to:

(703) 305-7687 [Official communications; including  
After Final communications labeled  
"Box AF"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive,  
Arlington, VA, 7<sup>th</sup> floor receptionist.



JOHN G. WEISS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600